

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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OSCAR RAMIREZ, JAVIER GUERRERO,  
GERONIMO HERCULANO, PABLO RUTILIO,  
MAGGIE ANDRES CRECENCIO, GUILLERMO ALVAREZ,  
JUANA CRUZ HERNANDEZ, LEONIDAS MATEO,  
ANYELI OVALLES HERNANDEZ, MIRNA REYES  
MARTINEZ, RAMON ROSARIO, OMAR TAVERAS,  
LUIS ESPINAL, and JUAN SALMERON on behalf of  
themselves and others similarly situated,

Plaintiffs,

v.

M L RESTAURANT, CORP., M.L. SAN JOSE ENTERPRISES, CORP.,  
d/b/a LIBERATO RESTAURANT, ANTONIO MANUEL LIBERATO,  
FERNANDO LIBERATO, VICTOR LIBERATO, NELSON GOMEZ,  
LUCY GOMEZ, SARAH VALLEJO, NANA (LNU), and ROMEO (LNU)  
jointly and severally,

Defendants

-----X  
State of New York )

) ss.:

County of New York )

JAVIER GUERRERO, residing at 2455 Grand Ave., Apt. 5E, Bronx, New York, being  
duly sworn, deposes and says:

1. Since mid-2006 I have been employed by Liberato Restaurant.
2. Liberato Restaurant is an establishment with locations at 1 West 183<sup>rd</sup> St. and 10 West Burnside Avenue, County of the Bronx, State of New York.
3. I was employed as a prep cook and fryer operator by defendants in two periods at the 183<sup>rd</sup> Street location: from on or about mid-2006 to on or about November 18, 2013; and from on or about February 17, 2014 to the present.

No.: 14 -cv- 4030

Hon. Valerie E. Caproni

**AFFIDAVIT OF JAVIER  
GUERRERO IN SUPPORT OF  
PLAINTIFFS' REQUEST FOR  
CONDITIONAL CLASS  
CERTIFICATION**

4. There are more than forty (40) employees in the 1 West 183<sup>rd</sup> St location, of which approximately (6) are fryers, cooks, and dishwashers. Over the years, many people came and went through the kitchen, particularly dishwashers.

5. I regularly worked ten (10) hours a day, five (5) to seven (7) days per week, and was paid in cash at the end of each week. Most often I worked six (6) days a week, ten hours a day and was paid \$420 in cash at the end of the week. When I worked fifty (50) hours I received \$350 and when I worked seventy (70) hours worked per week I received \$490.

6. I worked these hours without breaks and if I wanted to eat, I had to eat while standing and working. This situation continues to the present, and I believe the lack of breaks is typical of workers in the kitchen and in the dining room.

7. In or about February 2014, due to an injury, I reduced my schedule to four (4) days a week, 9 hours a day, and I receive \$300 a week in cash.

8. I know that I receive approximately \$7.00 per hour, which I understand is less than minimum wage. I believe many of my coworkers are also receiving less than minimum wage.

9. When I did work a workweek in excess of forty (40) hours, I never received overtime. I have never heard of any Liberato worker being paid overtime.

10. From the time I began to work at Liberato until the present I have never received a statement of wages, nor have I ever heard of, or seen anyone receive wage statements.

11. In 2012, the manager explained that I must sign in a book kept by management to receive my pay. The manager tells me to sign without explaining what the book states.

12. I have reason to believe that how I am treated is not different in any way from how my coworkers are treated.

WHEREFORE, it is respectfully urged that the request for conditional certification of a representative class be granted.

Sworn to before me this

JAVIER GUERRERO

JAVIER GUERRERO

25<sup>th</sup> day of September 2014.

Rebecca T. Ishak

Notary Public

REBECCA T. ISHAK  
Notary Public, State of New York  
No. 01IS6286012  
Qualified in Queens County  
Commission Expires July 22, 2017